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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,153	01/03/2002	Thomas E. Creamer	BOC9-2001-0013 (248)	9334

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EXAMINER
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DEANE JR, WILLIAM J

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/039,153

Applicant(s)

CREAMER ET AL.

Examiner

William J. Deane

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-10,12-25 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-10, 12-25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 2, 4 – 6, 9 – 10, 12 – 14, 17 – 19, 22 – 23, 25, 27 - 29 are rejected under 35 U.S.C. 102(e) as being anticipated by the well-known butt-in or barge-in service and/or in the alternative U.S. Patent No. 6,208,726 (Bansal et al.).

With respect to claim 1, 4 – 5, 9, 12 – 13, 17 – 19, 22 – 23 and 27 - 29 the claimed limitations read on the well-known service of butt-in or barge-in or breakthrough. That is, a call is going on between two parties and a third party requests a butt-in or barge-in or breakthrough service or feature to be temporarily provisioned for the duration of the call; such a feature not being previously provisioned to the called party by an exchange carrier. Note that such a feature is deactivated at the end of the call. In addition, butt-in or barge-in or breakthrough service or feature can be

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reallocated at the completion of the call. For example, Basal et al show a typical butt-in or barge-in or breakthrough service. See Abstract and Col. 2, lines 1 – 32.

With respect to claim 2, 10 note use of 85.

With respect to claims 6 and 14, 19 it appears that such would be inherent.

With respect to claim 25, such would be inherent.

With respect to claim 28, note Figs 1 and 3.

With respect to claim 29, note use of ANI (Abstract).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 – 8, 15 – 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bansal et al. in view of U.S. Patent No.2003/0045267 (Koponen) or in the alternative U.S. Patent Application No. 2003/0023523 (McKibben et al).

With respect to claims 7 – 8 and 15 – 16, Bansal et al. teach the claimed limitations as shown above except for explicitly teach a list of particular services. However, note that Koponen teaches such in Fig. 1. It would have been obvious to one of ordinary skill in the art to have incorporated such a list of offered features as taught by Koponen into the Bansal et al. system as such would only entail a well-known added value means of offering more services.

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With respect to McKibben et al., note Paragraph 0023 and claims 6 – 9. It would have been obvious to one of ordinary skill in the art to have incorporated the user profile of services as taught by McKibben et al. into the Bansal et al. system in order that one might know which services he has to choose from.

With respect to claims 20 - 21, 24 the use of a bus would be obvious to one of ordinary skill in the art.

### ***Response to Arguments***

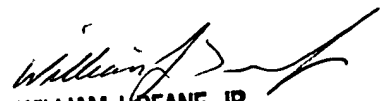
Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

However, it should be noted that the well-known services such as barge-in or butt-in or breakthrough do not require a subscription or code. In addition, the fact that Bansal et al. requires a subscription and a code is immaterial. The instant claims, as written, would read on such a service whether such a service required a subscription or not. That is, the claims do not negatively recite a service "without requiring a service subscription or code" or the like.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (571) 273-8300.

10Dec2006

  
WILLIAM J. DEANE, JR.  
PRIMARY EXAMINER